



April 6, 2000

Mr. Monty Wade Sullivan
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR2000-1337

Dear Mr. Monte Sullivan

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 133834.

The City of Houston (the "city") received a request for a list of all city-issued pagers, pager numbers, employee names and their respective departments. You have released the pager numbers of all city employees other than law enforcement personnel. You claim that the pager numbers of law enforcement personnel are excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.¹

Section 552.108(b) excepts from disclosure "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution." Section 552.108(b)(1) excepts from disclosure the internal records and notations of law enforcement agencies and prosecutors when their release would interfere with law enforcement and crime prevention. Open Records Decision No. 531 at 2 (1989) (quoting *Ex parte Pruitt*, 551 S.W.2d 706, 710 (Tex. 1977)). When section 552.108(b)(1) is claimed, the agency claiming it must reasonably explain, if the information does not supply the explanation on its face, how releasing the information would interfere with law enforcement. Open Records Decision No. 434 at 3 (1986).

¹You assert that the submitted information represents the complete list of pager numbers of the Houston Fire Department arson investigators and the Office of the Inspector General law enforcement personnel, and a representative sample of pager numbers of the Houston Police Department law enforcement personnel. We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). Here, we do not address any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Open Records Decision No. 506 specifically held that the predecessor to section 552.108(b) “protects the cellular mobile phone numbers assigned to county officials and employees with specific law enforcement responsibilities.” Open Records Decision No. 506 at 2 (1988). This office opined that release of the mobile phone numbers would easily defeat the purpose of the telephones, which is to insure immediate access to employees with specific law enforcement responsibilities. *Id.* You represent that the pager numbers in question are those of law enforcement personnel, and that their purpose is to insure immediate access by the city to designated law enforcement personnel. Based on your arguments, we agree that the release of pager numbers would interfere with law enforcement. The city may withhold the pager numbers of classified peace officers, including fire department arson investigators, and employees assigned to the Office of the Inspector General who fulfill a law enforcement function under section 552.108(b)(1). However, the mere fact that law enforcement personnel have pagers assigned to them and the departments that they work for are not protected by section 552.108. Therefore, the city must release the list of names of law enforcement personnel and departments to whom the pagers are assigned.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body’s intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general’s Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.–Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read 'Noelle C. Letteri', written in a cursive style.

Noelle C. Letteri
Assistant Attorney General
Open Records Division

ncl/nc

Ref: ID# 133834

Encl. Submitted documents

cc: Mr. Wayne Dolcefino
KTRK-TV
3310 Bissonnet
Houston, Texas 77005
(w/o enclosures)